

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MAURICE L. AINSWORTH,

Petitioner,

v.

SANTA CRUZ SUPERIOR COURT,

Respondent.

Case No. [16-cv-07210-VC](#) (PR)

**ORDER OF DISMISSAL WITHOUT
PREJUDICE**

Petitioner Maurice L. Ainsworth is a state prisoner who filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his conviction in the Santa Cruz County Superior Court. On February 28, 2017, the Court issued an Order for Petitioner to Provide Notice About How He Wishes to Proceed. *See* ECF No. 10. The Court noted that, from the face of the petition, it appeared that none of Ainsworth's claims had been exhausted in state court. The Court explained that, under the Antiterrorism and Effective Death Penalty Act, claims presented in a federal habeas petition must first be exhausted in state court and, because Ainsworth's claims had not been exhausted, he had two options about how to proceed. The Court granted Ainsworth 28 days in which to notify the Court about how he wished to proceed and, if he did not respond within 28 days, the Court would assume that he chose option (1), to dismiss the action and return to state court to exhaust all claims before returning to federal court to present his newly exhausted claims in a new petition.


Twenty-eight days have passed and Ainsworth has not filed a notice about how he wishes to proceed. Accordingly, the Court assumes he is choosing option (1) and dismisses this action without prejudice. After Ainsworth exhausts his claims in state court, he may file a new petition

with fully exhausted claims.

The Clerk of the Court shall terminate all pending motions, enter a separate judgment and close this file.

IT IS SO ORDERED.

Dated: May 8, 2017



VINCE CHHABRIA
United States District Judge